

MONTANA PUBLIC DEFENDER COMMISSION
LEGISLATIVE COMMITTEE MEETING

The Broadway Inn, Missoula, Montana

Minutes

July 17, 2008

(Approved at the October 10, 2008 Commission Meeting)

Call to Order

The meeting of the Legislative Committee of the Montana Public Defender Commission was called to order by Committee Chair Tara Veazey at approximately 4:00 p.m.

Commissioners Present

Tara Veazey, Wendy Holton, Mike Sherwood, Jennifer Hensley

Other Interested Parties

Scott Crichton, American Civil Liberties Union of Montana (ACLU); Randi Hood, Chief Public Defender; Harry Freebourn, OPD Administrative Director

Purpose of Committee

Chair Veazey will revise the draft statement of purpose (exhibit L-1) to incorporate the following items and circulate a new draft to the Committee:

The Committee will communicate with the Budget Committee and may be involved in the legislative session and with strategizing with the Governor's office regarding agency bills.

Review Potential Legislation

The custodial questioning recording bill (exhibit L-2) did not pass last session. The bill will be resubmitted this year with new language changing the word "criminal" to "felony," with the hope of alleviating some of the arguments presented last time.

The discovery bill (exhibit L-3) is new this session. Chief Hood said that prior to implementation of the statewide public defender system most offices received discovery at no charge. Currently some offices are paying up to 50 cents per page for copies and \$30 for a videotape. The bill would require discovery to be provided at no cost when the defendant is represented by OPD.

Commissioner Hensley asked if these costs are considered when an OPD client is billed for a portion of the services received. Mr. Freebourn said that because this is a new development those costs have not been included in calculating the hourly rate. She then asked where the money OPD pays is going. Mr. Freebourn said that it varies by location; it could be the city, the county, or some other entity.

Commissioner Sherwood suggested removing the phrase "Upon request" from the draft discovery bill. He said that it is unfair for the defense to have to make a request for discovery when the prosecution gets it automatically. The Committee agreed.

Chief Hood said that another issue that has come up recently in Regions 1 and 2 is limiting the ability of public defenders to have contact with clients at the earliest opportunity (prior to the initial appearance). She is concerned that other counties may follow suit.

Commissioner Hensley made a motion to move both pieces of legislation to the full Commission for consideration. Commissioner Sherwood seconded and the motion carried.

Discussion – Legislative Issues (exhibit L-4)

Chief Hood will discuss the two bills at the next meeting of the Law and Justice Interim Committee if the full Commission gives their approval.

Other potential legislation of interest includes extending juvenile detention from 24 to 48 hours and a discussion regarding building a juvenile in-patient psychiatric facility. Shackling might also be an issue.

Chair Veazey drafted a letter asking for staff and contract attorney participation in the legislative process. She says it should be sent on behalf of the entire Commission, not just the Committee.

Public Comment

Mr. Crichton has concerns about how the criminal defense bar makes its voice heard during the legislative process. He suggested that having public defenders give legislators a “real-world” view would be very helpful.

Old Business/New Business (*Action Items)

There were no additional action items.

Adjourn

The meeting adjourned at 5:00 p.m.